

Senate Bill No. 1544

Passed the Senate August 31, 2006

Secretary of the Senate

Passed the Assembly August 28, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 806 to the Evidence Code and to add Section 686.3 to the Penal Code, relating to criminal investigations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1544, Migden. Criminal investigations: eyewitness identification: lineups.

Existing law does not regulate how law enforcement officials prepare or conduct eyewitness photo or live lineup identifications.

This bill declares legislative intent that law enforcement officials study and consider adoption of policies and procedures regulating eyewitness lineup identifications so as to ensure a decrease in the number of misidentifications.

This bill would require the Department of Justice and the Commission on Peace Officer Standards and Training to develop guidelines in consultation with local law enforcement agencies, prosecutors, defense attorneys, and other legal experts, as specified, in order to ensure the reliability of eyewitness photo and live identifications, as specified.

Existing law allows opinion testimony from expert witnesses to be admitted at trial upon specified showings.

This bill would allow expert testimony regarding the reliability of an eyewitness identification to be admitted at trial if the proponent of the evidence establishes relevancy and proper qualifications of the witness.

Because this bill requires local agencies to adopt new guidelines, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 806 is added to the Evidence Code, to read:

806. Consistent with existing law, expert testimony may be admitted regarding factors that affect the reliability of eyewitness identification if the proponent of the evidence establishes relevancy and proper qualifications of the witness.

SEC. 2. Section 686.3 is added to the Penal Code, to read:

686.3. (a) The goal of a law enforcement criminal investigation is to find and apprehend the person or persons responsible for committing a crime.

(b) A comprehensive body of peer-reviewed studies of eyewitness identification procedures indicate that the criminal justice system can improve the accuracy of eyewitness identifications by implementing changes to identification procedures.

(c) Improving the accuracy of eyewitness identifications will increase public trust in the criminal justice system.

(d) Policies and procedures such as those recommended by the National Institute of Justice and the California Commission on the Fair Administration of Justice are readily available and have proven effective in other jurisdictions.

(e) It is the intent of the Legislature that law enforcement officials study and consider adoption of new policies and procedures similar to those recommended by the National Institute of Justice and the California Commission on the Fair Administration of Justice in order to ensure that eyewitness identification procedures in California minimize the chance of misidentification of a suspect.

(f) On or before July 1, 2007, the Department of Justice, and the Commission on Peace Officers Standards and Training, in consultation with local law enforcement agencies, prosecutors, defense attorneys, and other legal experts, including representatives of the California District Attorneys Association, the Los Angeles District Attorney, the California Public Defenders Association and the California Attorneys for Criminal Justice, shall develop guidelines for policies and procedures with respect to collection and handling of eyewitness evidence in criminal investigations by all law enforcement agencies operating

in California. These guidelines shall be developed to ensure reliable and accurate suspect identifications and shall be consistent with the reliable evidence supporting best practices, including consideration of the recommendations of the California Commission on the Fair Administration of Justice. All law enforcement agencies shall adopt the guidelines by December 31, 2007.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2006

Governor